

AMENDMENTS TO THE DRAWINGS

After reviewing the drawings as originally submitted, the Applicant noticed that several amendments to the drawings were required. The currently submitted Replacement Sheet reflects the amendments.

Regarding the drawings, it was observed that there was no number on one figure and confusion regarding which cross-sectional view was representative of each of the elevational views in Figs. 1 and 3. To resolve this confusion, the previously unnumbered figure has been labeled Figure 2, and the figure which was previously numbered Figure 2 has been renumbered as Figure 4. It is believed that renumbering the Figures will help clarify the specification, as the specification now clearly states that Figure 4 is a cross-sectional view of Figure 3, and Figure 2 is a cross-sectional view of Figure 1.

Upon further review of the drawings it was also observed that Figure 3, as originally filed, shows a view of the base strip 36, which can be seen clearly in Figure 5. However, Figure 3 was previously described as a plan view of the flashing strip. It is now seen that this is not the case, and Figure 3 shows a base strip 36 rather than a flashing strip 10. In order to further clarify the drawings as they were originally presented, particular elements found in Figures 3-5 have been renumbered to accurately demonstrate the present invention.

Specifically, on Figure 3, reference 36 was added to clarify that the drawing is a base strip 36 rather than a flashing strip 10. For the same purpose, reference 16 was removed as the member 16 is found on the flashing strip 10 rather than the base strip 36. In addition, reference 30 was changed to 24 to reflect the gap 24 rather than a shingle 30 so that Figure 3 and Figure 4 correlate more accurately.

On Figure 4 (the previous Figure 2), 18'' has been renumbered 38, 18''' has been renumbered 42, and angle α has been inserted to help demonstrate the angle between surface 14 and the top and bottom strips (38 and 42, respectively).

On Figure 5, reference 10 was moved so that it now properly identifies the flashing strip as installed along one edge of a chimney. Reference 36 was added to accurately demonstrate where the base strip 36 is positioned as installed on a roof and along another edge of the chimney.

Although a number of changes have been made, the Applicant is certain that the drawings now more clearly identify the correct elements of the present invention. Furthermore, the clarification brought by the Replacement Drawings will only serve to more clearly demonstrate the present invention as originally submitted.

Importantly, no new matter has been added.

REMARKS

Upon entry of the present invention, claims 1, 3, and 5 have been amended, claims 4, 10, and 11 have been canceled, and claim 12 has been added to the application.

The above-identified Office Action has been reviewed and the references carefully considered. In view hereof, the present amendment is submitted. It is contended that by the present amendment all bases of rejection set forth in the Office Action are traversed and overcome. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

The Examiner's contentions will be addressed in the order presented in the Detail Action section of the Office Action.

Claim Rejection 35 U.S.C. 102(e)

The Examiner has rejected claims 1-5 under 35 U.S.C. 102(e) as anticipated by Zdeb. Section 102(e) states that a person shall not be entitled to a patent when:

the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The Applicant's Attorney traverses the Examiner's rejection. Under 35 U.S.C. 102, to constitute an anticipation all the claimed elements must be found in exactly the same function and united in the same way to perform the identical function in a single unit of the prior art. Or stated differently, anticipation can only be established by a single prior art reference which discloses each and every element of the claimed invention.

Zdeb fails as a reference upon which to predicate an anticipation rejection. Zdeb discloses a succession of legs wherein the opposed leading and trailing edges of the successive legs overlie and underlie the next adjacent succeeding and preceding leg. The medial portions are not in overlying/underlying relation with the next adjacent legs.

In order to expedite prosecution, the Applicant has amended claim 1 without prejudice. Claim 1 now recites the following limitation: “wherein at least some of the succession of legs have a first portion overlying the medial portion of the next adjacent preceding leg and the opposite second edge portion underlying the medial portion of the next adjacent succeeding leg.” This relation is not shown or disclosed in Zdeb.

The added limitation regarding the medial portion sufficiently distinguishes the present invention over Zdeb. Zdeb does not teach that the legs of the flashing strip contain a section which both underlies an adjacent leg and overlies an adjacent leg. Zdeb’s only disclosure of overlapping of legs is found in paragraph [0035], wherein it states that “[t]he flashing tabs 36 are preferably rectangularly shaped and are spaced apart in a parallel, overlapping fashion . . . as may best be seen in FIGS. 1b, 2a, and 2b.” Those three figures show the flashing tabs, or legs, having only minimal overlap, and certainly not containing a medial portion which both overlies an adjacent leg and underlies an adjacent leg.

Furthermore, it is asserted that by claiming the currently amended Claim 1, the Applicant has not included new matter in the application. As originally (and currently) presented in this application, Figure 1 clearly shows the legs containing a middle portion which both overlay and underlay adjacent legs.

Therefore, Applicant contends that the currently amended Claim 1 now claims originally presented matter which is not anticipated by Zdeb. Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection of Claim 1.

Applicant's Attorney submits that Claim 1 is patentable over the prior art.

Claims 2-5 depend upon the currently amended Claim 1, and are patentable for the same reason that Claim 1 is patentable. Therefore, the Applicant respectfully requests the Examiner to withdraw the rejection of claims 2-5 as well.

Claim Rejection 35 U.S.C. 103

The Examiner has rejected claims 6-11 under 35 U.S.C. 103(a) as being obvious over Zdeb in view of Hickner (U.S. Patent No. 5,675,939). 35 U.S.C. 103(a) states that:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Applicant's Attorney traverses the Examiner's rejection. Claims 6-11 depend from Claim 1 which is submitted to be allowable.

It is noted that the Examiner acknowledges that Zdeb does not teach extruding or injection molding of a roof flashing system. However, the Examiner contends that Hickner teaches shaping (extruding) and injection molding of aluminum and plastics as a known process of forming parts including flashing.

However, Hickner specifically states that "[t]here are materials which can be formed into flashings within the scope of the present inventive concept, such as by . . . sand molding

or *shaping* and firing of *ceramic or clay materials* . . . *stamping* of ductile or bendable *metals*, injection molding of thermoset or thermoplastic materials.” The Applicant respectfully contends that Hickner does not teach the extrusion of metals or plastics, nor does it teach the injection molding of metal. It teaches that ceramics or clay materials may be shaped, and that ductile metal materials may be stamped, but it certainly does not teach that metals or plastics may be extruded, or that metals may be injection molded in forming roof flashing.

Therefore the argument that it would have been obvious to one of ordinary skill in the art to combine the teachings of Zdeb and Hickner lacks merit because Zdeb and Hickner do not collectively teach the present invention. Modification of the references to meet the Applicant’s claimed invention would not be obvious under 35 U.S.C. 103. Because Hickner fails to teach the extrusion of metal or plastic, as well as the injection molding of metal, in forming the roof flashing, one may not use Hickner to argue that it would have been obvious to one of ordinary skill in the art to use the aforementioned methods to form the present invention. As such, the Applicant respectfully requests that the Examiner withdraw the rejection of Claims 6-9.

In order to expedite prosecution, and acting without prejudice, the Applicant has canceled Claims 10-11.

In addition, the Applicant has added a new Claim 12 which claims a roof flashing system comprising the roof flashing strip of Claim 1 and a base strip as shown in detail in Figures 3-4, and shown as installed in Figure 5. The Applicant contends that, while not elaborated upon until the present Amendment, the drawings sufficiently disclosed the roof

flashing system in Figures 3-5 as the drawings were originally presented. As such, Claim 12 does not contain any new matter.

Lastly, it is noted that the Applicant has included several new paragraphs to the specification in addition to the amendment of several existing paragraphs. The Applicant contends that, just as with the amended drawings and claims, the amendments to the specification contain no new matter because the originally presented drawings provided a full disclosure for each amendment currently presented.

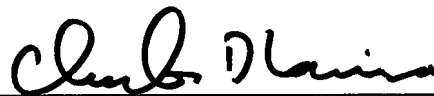
Conclusion

It is respectfully submitted by this amendment that all bases of rejection and objection have been traversed and overcome and thus, it is contended that in the absence of more pertinent art, the application has now been placed in a condition for allowance. A notice to this effect is, therefore, respectfully requested.

If the Examiner feels that prosecution of this application can be expedited, then he is courteously requested to place a telephone call to the Applicant's attorney at the number listed below.

Respectfully submitted,

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